

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

DARIUS GITTENS,

Plaintiff,

v.

MILDRED SCHOLTZ, et al.,

Defendants.

Civil Action

No. 18-2519 (RBK)(KMW)

**MEMORANDUM OPINION**

**ROBERT B. KUGLER, U.S.D.J.**

Before the Court is Plaintiff Darius Gittens' motion to reinstate the complaint and request for other relief. (ECF No. 8). On May 1, 2018, the Court terminated this matter pursuant to Local Civil Rule 10.1, after receiving notification that the post office returned the Court's mail to Plaintiff as undeliverable. (ECF Nos. 4 & 5).

Prior to receiving Plaintiff's motion, the Court reinstated this matter upon receiving a letter from Plaintiff indicating that his address did not change. (ECF No. 9). Consequently, to the extent that Plaintiff's motion seeks the reinstatement of this matter, the Court will terminate the motion as moot.

Additionally, Plaintiff alleges that the Court received the undeliverable mail notice in error, due to fraud on the part of a person or group of people, at either the prison or this courthouse. Plaintiff requests that the Court order a "criminal investigation" into the alleged fraud and obstruction of justice. (ECF No. 8, at 6). Plaintiff cannot, however, "bring criminal charges in this Court; that power lies solely with the executive branch." *See, e.g., Telfair v. Post*, No. 18-3842, 2018 WL 3054679, at \*12 (D.N.J. June 20, 2018); *Lewis v. Sessions*, No. 17-5475, 2017 WL 7313822, at \*1 (D.N.J. Nov. 3, 2017).

Courts “have long held that a civil rights plaintiff may not seek relief in civil litigation in the form of an order directing the criminal prosecution of some third parties,” finding that such plaintiffs lack standing or that such relief is simply unavailable in a civil suit. *E.g., Dicent v. Sears Holdings*, No. 17-332, 2017 WL 1045066, at \*5 (M.D. Pa. Feb. 27, 2017) (collecting cases), *report and recommendation adopted*, 2017 WL 1042470 (M.D. Pa. Mar. 17, 2017), *appeal dismissed*, No. 17-1679, 2017 WL 4417851 (3d Cir. June 20, 2017). Accordingly, to the extent that Plaintiff requests a criminal investigation, the Court denies that request.

An appropriate order follows.

**February 27, 2019**  
Date

s/Robert B. Kugler  
ROBERT B. KUGLER  
United States District Judge